

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ARI J. KODECK

v.

ANNE CREGGER

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Civil No. CCB-17-2557
(BK No. 12-10428,
Adv. No. 16-49)

MEMORANDUM AND ORDER

Now pending is an appeal filed by Ari J. Kodeck, Esquire, from a fine imposed on him by Bankruptcy Judge Robert A. Gordon in connection with a discovery dispute. Mr. Kodeck previously represented the State of Maryland in a case brought by debtor Anne Marie Cregger against the State of Maryland, and others, related to the state's collection of what she asserted was a dischargeable debt.¹ In the course of entering final judgment in favor of Ms. Cregger, Judge Gordon also imposed a fine against Mr. Kodeck personally, although without citing any Rule, statute, or other basis for this Order. (*See Order Entering Final Judgment*, filed August 22, 2017 at 2, ECF No. 14-27).

Mr. Kodeck appealed on the basis that the fine was entered against him without any notice, hearing, or other procedural due process appropriate for an attorney sanction of this kind. *See, e.g., Fed.R. Bankr. P. 8020(b); Fed. R. Bankr. P. 9011(c)*. Counsel for the debtor in the underlying proceeding has agreed in connection with this appeal that a hearing should be held. (Resp. ¶ 4, ECF No. 17).

It appears to this court that Mr. Kodeck did not receive due process before the imposition of a serious sanction. Further, the bankruptcy judge did not provide the kind of factual findings

¹ Judge J. Frederick Motz agreed with Ms. Cregger that the debt was dischargeable, but noted that the issue was "close." *See JFM-15-818*, Mem. at 1, ECF No. 8.

or citation to legal authority that would permit this court to determine whether any sanction was warranted. See, e.g., *Virginia Properties, LLC v. T-Mobile N.E., LLC*, 865 F.3d 110, 113-14 (2d Cir. 2017); *Bradley v. Am. Household, Inc.*, 378 F.3d 373, 377-79 (4th Cir. 2004).

It further appears to this court that the bankruptcy judge has already stated an extremely strong opinion regarding Mr. Kodeck's credibility. (See, e.g., Trial Tr., April 4, 2017 at 64, ECF No. 14-21; Oral Arg. Tr., at 54-55, 57, ECF No. 14-24.) Accordingly, to preserve both the appearance and substance of Mr. Kodeck's due process protections, upon remand this matter should be reassigned to a different judge for a determination of whether to issue a show cause order or to take any further action regarding a sanction against Mr. Kodeck.

Accordingly, the appeal is **Granted** and that portion of the Order Entering Final Judgment is **Vacated**. This case is **Remanded** to the bankruptcy court for further action consistent with this Memorandum and Order.

7/2/18
Date

CCB
Catherine C. Blake
United States District Judge